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ABSTRACT

In May 1974, the School Finance Project of the Lawyers' Committee published a Summary of State-Wide School Finance Cases. Its purpose was to provide an overview of the field so that interested persons could quickly learn the status of school finance litigation in the several states. This was accomplished by tracing the procedural history of each case with a report as to its current status. This document is an update designed to ensure that interested persons and organizations may continue to keep abreast of developments. It treats pending cases in Alaska, California, Connecticut, Florida, Georgia, Kansas, Maine, Missouri, New Jersey, Ohio, Oregon, and West Virginia and terminated cases in Idaho, Montana, and Washington. (Author/IRT)

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UPDATE ON STATE-WIDE SCHOOL FINANCE CASES

January, 1976
School Finance Project
LAWYERS' COMMITTEE FOR
CIVIL RIGHTS UNDER LAW

733 - 15TH STREET, N.W., SUITE 520
WASHINGTON, D.C. 20005
(202) 628-6700

EA 007 924

INTRODUCTION

In May 1974, the School Finance Project of the Lawyers' Committee published a Summary of State-Wide School Finance Cases. Our purpose was to provide an overview of the field so that interested persons could quickly learn the status of school finance litigation in the several states. Our methodology was to trace the procedural history of each case with a report as to its current status.

Changes have occurred in the ensuing months which require that the Summary, which is now out of print, be updated. For example, the Supreme Courts of Idaho and Washington have sustained legislation in their respective jurisdictions against constitutional attack. New school finance cases have been filed in West Virginia, Georgia and Missouri. This update is designed to ensure that interested persons and organizations may continue to keep abreast of developments.

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PENDING

ALASKA

Hootch v. Alaska State-Operated School System, 536 P.2d 793 (Alaska 1975)

Parties. Plaintiffs are Alaska Native (Eskimo, Indian and Aleut) school age children. Defendants are the Alaska state operated school system which provides education in the unorganized borough of the State of Alaska, members of the school systems board and officials of the Alaska Department of Education.

Description. Plaintiffs allege that a disproportionate number of Alaskan Natives must leave their homes and enter boarding schools in order to obtain a secondary education, as compared to children who reside in predominantly white villages of the same size. In villages with predominantly white populations, it is alleged that defendants are more likely to provide secondary schools or daily transportation to a secondary school. Consequently, many members of plaintiffs' class, not wishing to leave their homes for nine months each year, do not receive a secondary education, and correspondence courses are seldom provided and do not meet defendants' standards for secondary schools. Plaintiffs allege a violation of their right to education under Article 7, Section 1 of the Alaskan Constitution which requires the legislature to establish and maintain a system of public schools open to all children of the state and the statutory right to a secondary education in the community of the child's residence. Plaintiffs also claim racial discrimination under the Alaska and federal Constitutions' equal protection provisions. Additionally, plaintiffs claim the defendants' conduct constitutes unlawful geographical discrimination. Redress for past discrimination was also sought, including the waiving of the maximum school age for free public education for those children previously denied secondary education.

Status. On May 23, 1975, the Alaska Supreme Court (over the dissent of the Chief Justice) held that Article VII, Section 1, does not establish a right to attend school in the community of residence. The court held moot an argument based on regulations passed by the Board of Education which appeared to recognize such a right because they had been rescinded during the pendancy of the suit. The Supreme Court then remanded the case to the trial court for consideration of the plaintiffs' equal protection claims.

Pretrial discovery is substantially completed. The parties are trying to reach agreement on a consent decree under which the state will allocate a large sum of money to be used for school construction in rural areas.

CALIFORNIA

Serrano v. Priest, 96 Cal. Rptr. 601, 487 P.2d 1241 (1971)

This is the landmark case in which the California Supreme Court held that the state school finance system was unconstitutional under the state's equal protection clause because it made the quality of education a function of local school districts' taxable wealth.

Parties. Plaintiffs are school children and their tax paying parents from a number of Los Angeles county school districts. Defendants are the Treasurer, Tax Collector and Superintendent of Public Schools for Los Angeles County and the Treasurer, Comptroller and Superintendent of Public Instruction for the State of California. Certain property wealthy school districts have intervened as additional defendants.

Description. The complaint filed in *Serrano* became the model for most other suits filed after the California Supreme Court decision in this case. The suit challenged discrimination against both children and taxpayers in poor districts. Plaintiffs claimed that there were substantial disparities among school districts in California in tax base per pupil, that these disparities resulted in substantial disparities among districts in dollar amounts spent per pupil for public education, and that the educational opportunities available to children in tax poor districts were substantially inferior to those available for children of wealthier districts.

Status. This suit was filed on August 23, 1968. The complaint was dismissed by the California Superior Court which was affirmed by the California Court of Appeals. On August 30, 1971, the California Supreme Court reversed the decision dismissing the complaint, and remanded the case to the trial court for further proceedings. The California Supreme Court upheld the complaint primarily in the basis of the claim that the education finance system in California makes the quality of education for school age children in California a function of the wealth of a child's parents and neighbors as measured by the tax base of the school district in which the child resides. However, the court made clear that the plaintiffs had to prove their allegations at trial in order for the California school finance system to be held unconstitutional.

On April 10, 1974, after a 5 month trial, the trial court declared the California system of school finance unconstitutional as a violation of the equal protection provisions in the State Constitution. In a lengthy opinion, the trial court found that the current financing scheme in California, notwithstanding the significant increase in state aid enacted in 1972, still made the quality of education a function of the local wealth of school districts. The trial court held that the plaintiffs "established the truth of the allegations in their com-

plaint," and it pointed out the following objectionable features in the current financing system:

> "The basic aid payment of $125 per pupil to high wealth school districts;"
>
> "Disparities of greater than $100 between school districts in per pupil expenditures, apart from the categorical aids special needs programs." (These disparities are to be eliminated within six years, according to the court.)
>
> "Substantial variations in tax rates between school districts." (These variations are to be minimized within six years.)

The county and wealthy district defendants are now appealing the trial court's decision to the California Supreme Court. Number LA 30398. Briefs of all parties have been filed in the Supreme Court. The state officials who are defendants have not appealed, and two state defendants, Superintendent of Public Instruction Wilson Riles and State Treasurer Jessie Unruh have filed briefs which support plaintiffs.

CONNECTICUT

Horton v. Meskill, 31 Conn. Sup. 377, 332 A.2d 813 (Hartford County Superior Court 1974)

Parties. The plaintiffs are school age children from the town of Canton. The defendants are state executive officials responsible for the distribution of state funds for expenditure in public schools: the Governor, members of the State Board of Education, State Treasurer and State Comptroller.

Description. Plaintiffs claimed that the Connecticut school finance system violated both the state and federal constitutions' equal protection clauses in that the state had been derelict in its function and duty as specified in Section 1 of Article 8 of the Connecticut Constitution: "There shall always be free elementary and secondary schools in the state. The general assembly shall implement this principle by appropriate legislation." A state commission report issued in February 1974 estimated that sources of school revenue in the state during the 1973-74 school years were as follows: 73.8% local taxes; 23.1% state aid; and 3.1% federal aid. Since local property taxes are the principle source of revenue, the property valuations for school districts range from $20,000 to $170,000 and state aid is distributed as a flat grant, less wealthy districts are unable to provide the same or similar educational services that other wealthier districts can.

Status. On December 26, 1974, the Superior Court of Hartford County issued a memorandum decision in substantial agreement with the plaintiff's contentions. The Court found that "although the duty of educating children has been delegated by statute to municipalities, both the common law of this state and the Connecticut Constitution provide that the duty of educating Connecticut children is upon the state, as a whole, and not upon the municipalities." The court held that a legislative scheme for financing education

which depended primarily on local property wealth was not "appropriate legislation" under Article VIII, Section 1. Alternatively, the court held that under the Connecticut Constitution, education is a fundamental interest demanding strict scrutiny under the states' equal protection clause. The court did not grant injunctive relief but retained jurisdiction over the case. The state has filed a notice of appeal.

FLORIDA

District School Board of Bay County Florida v. Department of Education,

Parties. The plaintiff is a school district bringing suit against various officials of the state department of education.

Description. This case arises out of the inclusion of a cost of living differential in the state program for providing equalization aid to school districts. The plaintiff school district claims that the factors used in determining the cost of living differential by counties are inadequate and violate the uniformity provision of the State Constitution. It is important to note that this suit does not attack the concept of a cost of living differential. The cost of living differential is now in its third year of use in Florida. This suit attacks only the factors that were applied the first year and seeks to be indemnified for lost revenues by the State or by other school districts that benefited by the cost differential.

Status. Subsequent to the filing of this suit, the legislature provided a different set of factors to be used in the equation. The state filed a motion to dismiss for mootness. The trial court refused to dismiss the complaint and the state took an interlocutory appeal to the Florida Supreme Court. That court declined jurisdiction over the interlocutory appeal. Subsequently, the Circuit Court of Appeals also declined jurisdiction. The case is now set for trial on the merits in January 1976.

GEORGIA

Thomas v. Stewart, Docket No. 8275, (Polk County Superior Court)

Parties. The plaintiffs include (1) members of the Whitfield County Board of Education suing in their official capacities and in their individual capacities as representatives of a class or property owners and (2) children who attend the public schools in the county. The defendants are the members of the Georgia State Board of Education, the State Superintendent of Schools and the Attorney General.

Description. As originally drawn, plaintiffs' complaint alleged that the Georgia statutory scheme for financing public education (dependent largely on a Minimum Foundation Program), failed to comply with Article VIII, Section 1, Paragraph 1 of the State Constitution, which imposed a "primary obligation" on govenment to provide an adequate education for all citizens. The complaint also rested on state constitutional provisions requiring uniform taxation among the same class of subjects. Subsequent to the filing of

the complaint, Georgia enacted new legislation designed to remove the disparities between school districts caused by widely varying property values. Although the new legislation made provision for district power equalization, that provision is presently inoperative. In September 1975, plaintiffs amended their complaint to allege that the new legislation, absent the operation of the district power equalization provision, has in effect carried forward the same inequities that were built into the Minimum Foundation Plan it replaced.

Status. Original complaint filed December 19, 1974; answer filed January 27, 1975; plaintiffs; first amended complaint filed September 1975.

KANSAS

Knowles v. Kansas, (District Court of Chatauqua County)

Parties. Plaintiffs are residents and taxpayers of certain Kansas Unified School Districts; children attending the unified School District, and certain designated school districts. Defendants are the Attorney General, the State Board of Education, the Director of Accounts and Reports and Controller of the State, the State Treasurer and the Commissioner of Education.

Description. This suit attacks provisions of the School District Equalization Act of 1973. The formula used to distribute funds to the school districts includes use of the state's real-estate sales ratio study. Plaintiffs contend that the use of the sales-ratio in determining the wealth of each school district gives a distorted picture of the district's wealth. The wealthier a school district is determined to be, the less general revenue school aid is given by the state. The suit attacks the formula under articles 1, 2, 6 and 11 of the Kansas Constitution and the Equal Protection Clause of the Fourteenth Amendment.

Status. On February 25, 1975, after a two day trial, the District Court upheld plaintiffs' claims and declared the statute unconstitutional. The court also granted injunctive relief to take effect July 1, 1975 in the absence of legislative action. Subsequently, the judge dissolved his order. The plaintiffs are appealing to the Kansas Supreme Court.

MAINE

Boothbay v. Longley, Docket No. 75-918 (Kennebec Superior Court)

Parties. Plaintiffs are coastal towns, elected officials, schoolchildren, residents, taxpayers and property owners. Defendants are the Governor of Maine, Commissioner of Education and Cultural Services, State Board of Education, State Tax Assessor, Treasurer, Attorney General, and the Director of the State Bureau of the Budget.

Description. The suit challenges the School Finance Act of 1975 which imposes a statewide property tax to finance public education as violating the United States and Maine constitutions. The law requires that all administrative units tax property at a uniform rate and pay the revenues into the state treasury. The sums are then redistributed to the administrative units in a

manner designed to equalize per pupil expenditures. A number of coastal towns voted not to raise revenues required by the law and filed suit for declaratory and injunctive relief.

Status. Complaint filed July 18, 1975. Answer filed July 22, 1975. A temporary restraining order was granted to the state July 23, 1975 requiring that the plaintiff towns not interfere with the collection of the Uniform School Tax as required by law and directing the plaintiffs to pay their respective shares of the taxes. On August 6, 1975, the state moved to cite the plaintiff for contempt for noncompliance. Under this threat, the plaintiffs came into compliance. The case is in the discovery stage.

MISSOURI

Benson v. Missouri, Docket No. 27911 (Circuit Court Cole County)

Parties. The plaintiffs are the members of the Board of Education of the City of St. Louis suing in their official capacities and individually as taxpayers and as the parents of children attending the elementary and secondary schools. The defendants are the State of Missouri, the Attorney General, the Missouri State Board of Education and the Commissioner of Education.

Description. The complaint seeks declaratory and injunctive relief against the operation of the Missouri Foundation Plan for financing education. The complaint also alleges that the state program fails to take into consideration "municipal overburden" in allocating funds and that by basing the amount of state aid on Average Daily Attendance it discriminates against urban schools which have a higher rate of absenteeism. Plaintiffs' claims are based on various provisions of the Missouri Constitution including Article IX, Section 1(a) requiring the General Assembly to establish and maintain free public schools for the gratuitous instruction of all persons in the State under 21 years of age. Article IX, Section 1(a) recognizes that "A general diffusion of knowledge and intelligence (is) essential to the rights and liberties of the people."

Status. Complaint filed September 1975. Answer not yet filed.

NEW JERSEY

Robinson v. Cahill, 62 N.J. 473, 303 A.2d 273 (1973)

Parties. Plaintiffs include the Mayors, members of the City Councils and Boards of Education for five property poor New Jersey cities. Also included as plaintiffs are a student and a taxpayer from a New Jersey city school district. The defendants are the Governor, Treasurer, Attorney General, Commissioner of Education, and both houses of the State Legislature, and their leaders.

Description. Plaintiffs charged in a sixteen count complaint that the New Jersey system of public school finance was unconstitutional for the following reasons:

It makes the quality of education dependent on the wealth of each district and not the state;

It places an unequal burden on property tax owners who live in low property tax value districts;

The public officials in these poor districts are unable to provide equal educational opportunities;

The minimum educational needs of the students in these districts are not being met;

The delegation to these districts to run schools was done without adqquate standards;

The schools are not being maintained thoroughly and efficiently as required by the State Constitution;

School district boundaries deprive plaintiffs of the power to spend what they want on education; and finally,

The current system promotes racial discrimination.

Plaintiffs asked the Court, *inter alia*, to declare the current educational finance scheme unconstitutional and to order the defendants to restructure the scheme in a manner not violative of the United States and New Jersey constitutions. Further, plaintiffs asked the Court to order the defendants to change the boundary lines of the districts in a way that would equalize the amount of taxbase per student and that would eliminate the complaint of discrimination.

Finally, the plaintiffs asked the Court to declare the state's real property tax unconstitutional to the extent that it is used for public school support and to direct the defendant to enact laws equalizing those taxes on a state-wide basis.

Status. The suit was filed in the Superior Court of Hudson County, New Jersey, in early 1970. A trial was held in late 1971, and on January 19, 1972, the Court held that the New Jersey school finance system violated the education clause of the State Constitution, the provision requiring uniformity of taxation, and denied the plaintiffs the equal protection of the laws under both the State and Federal Constitutions (118 N.J. Super. 223, 287 A.2d 187 (1972)). On appeal to the New Jersey Supreme Court, the decision was affirmed on the basis that the New Jersey school finance system violates the state's constitutional mandate to provide a "thorough and efficient" education (62 N.J. 473, 303 A.2d 273 (1973)). On June 19, 1973 in a supplemental opinion, the state was given until December 31, 1974 to establish reforms (63 N.J. 196). When the deadline passed without affirmative legislative action, the plaintiffs returned to the New Jersey Supreme Court and requested equitable relief against the State Legislature. By order dated January 23, 1975, the Court declined to order coersive relief but scheduled oral arguments on the question of its power to do so (67 N.J. 35). On May 23, 1975, having heard arguments, the Court ordered provisional relief for the 1976-1977 school year (67 N.J. 333 (1975)). Under the Court's order, in the absence of legislative ini-

tiative, Minimum Support Aid and Save-Harmless Funds will be enjoined and those funds disbursed in accordance with the incentive equalization formula of the 1970 Act. In the face of the Supreme Court's order, the Legislature passed and the Governor signed into law (September 29, 1975) S.1516, The Public School Education Act of 1975. Plaintiffs have filed objections to the plan with the Court on the grounds that: (1) it fails to define the term "thorough and efficient" in a comprehensible manner as required by the Court, (2) the legislature has not funded the act, and (3) assuming the act is funded, it would operate to preserve the inequalities between wealthy suburban school districts and disadvantaged urban districts. A decision from the New Jersey Supreme Court pertaining to the new legislation and the procedure for resolving future issues concerning compliance with the court's 1973 order is expected soon.

NEW YORK

Board of Education, Levittown v. Nyquist, Index No. 8208/74 (Nassau County Supreme Court)

Parties. The original plaintiffs are boards of education and children from low property wealth districts from Long Island and Upstate New York. Subsequent to the filing of the complaint, the Boards of Education of three large cities, Rochester, New York City, and Buffalo, the City of New York, a New York City parents organization, and children from these cities intervened as plaintiffs. The defendants are the Commissioner of Education, the University of the State of New York, the Comptroller and the Commissioner of Taxation and Finance.

Description. The complaint of the original plaintiffs alleges that the New York State school finance system makes the allocation of educational resources a function of local real property wealth without any relationship to legitimate educational considerations in violation of the state constitution's equal protection and education provisions. The education article specifies that "the legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of the state may be educated."

The intervenors complaint of the big cities alleges that the state education aid formula (a) measures local incapacity arbitrarily and inadequately resulting in large uban school districts, rendered poorest in school finance resources because of greater municipal services burdens and school costs, being treated as wealthy and receiving less state aid than other districts with greater resources; and (b) in undertaking to grant special assistance to school districts for students requiring compensatory educational services, arbitrarily and inequitably grants less and inadequate aid per student in the largest urban districts having the highest concentrations of such students and the greatest need to provide compensatory school services.

Status. Original complaint and intervenors complaint filed in 1974. Answer filed October 25, 1974. The case is in the discovery stage with a trial expected during 1976.

OHIO

State of Ohio ex rel Akron Education Association, Relators v. Martin Essex, State Superintendent of Instruction, Docket No. 75-895 (Ohio Supreme Court)

Parties. The plaintiffs are three individuals who are members of the Akron Education Association. Defendants are the State Superintendent of Instruction and the Tax Commissioner.

Description. In 1975, Ohio enacted finance reform legislation to replace its foundation program. The new act creates a two-tiered guaranteed tax base program which provides equalization aid for 95% of the school districts in the state. Governor Rhodes vetoed seven line items of the act including provisions for minimum teachers' salaries and staffing requirements and for the establishment of an urban education pilot project. Plaintiffs brought an original action for mandamus in the Ohio Supreme Court claiming that the Governor lacks constitutional authority to partially veto the bill, because such action is limited to appropriations measures.

Status. On October 21, the defendants filed a motion to dismiss on the ground that mandamus jurisdiction does not lie. On November 14, plaintiffs filed a memorandum in opposition to the motion. If the motion is granted, plaintiffs will seek declaratory and injunctive relief in the court of common pleas.

OREGON

Olsen v. Oregon (Oregon Supreme Court)

Parties. This is a class action on behalf of all public school children in Oregon, all children in the state whose family resources are so limited as to require them to attend public schools and the parent taxpayers, except for those in the school districts with the greatest wealth per pupil subject to local taxation for public education. By stipulation, the defendants are limited to the State Attorney General and Superintendent of Public Instruction. The original complaint also named several other state officials and representatives of the class of county and school district officials, but the court ordered the complaint dismissed against these defendants without prejudice in March 1972.

Description. Plaintiffs contend that Article VIII, Section 3 of Oregon's Constitution requiring the legislature to ". . . provide by law for the establishment of a uniform, and general system of common schools," establishes education as "fundamental interest" for the purposes of the state's equal protection clause and calls into play the "strict scrutiny" test in judging the validity of the school finance system. They also contend that "uniform and general" language itself requires that the quality of a child's education as measured by dollar expenditures not be a function of the wealth of that child's family, school district or any entity other than the state as a whole. They claim that Oregon's school finance system is ineffective in equalizing

spending from district to district, so that wealthy districts have significantly higher educational expenditures with less tax effort than poorer districts, and that the "flat grant" provision of the system has a disequalizing effect. The plaintiffs also claim that the system violates the state's equal protection and tax uniformity provisions with regard to the plaintiff parent paxpayers.

Status. The suit was filed early in 1972. It was tried before a state circuit court judge in September 1973. On February 25, 1975, the trial court ruled against the plaintiffs. Appellant's brief has been filed in the Oregon Supreme Court and the State's brief is due in January 1976.

WEST VIRGINIA

Pauley v. Kelly (Circuit Court for Kanawha County)

Parties. Plaintiffs are children attending the public schools in Lincoln County, West Virginia. Defendants are the West Virginia State Board of Education, the Superintendent of Schools and the Treasurer of the State of West Virginia.

Description. This is an action for declaratory and injunctive relief to invalidate West Virginia's education finance statute under provisions of the state constitution. Plaintiffs contend that the statutory scheme fails to produce a "thorough and efficient" education mandated by Article XII, Section I and that it deprives the plaintiffs and their class equal protection of the laws.

Status. Plaintiffs' complaint was filed February 10, 1975. The state has filed a motion to dismiss which is pending. Discovery is well underway.

TERMINATED

IDAHO

Thompson v. Engelking, 537 P.2d 635 (Idaho Supreme Court, May 1, 1975) (3-2)

Parties. Plaintiffs were school children and their tax-paying parents who reside in the Pocatello School District No. 25. Defendants were the State Superintendent of Public Instruction, the members of the State Board of Education, the State Auditor and the State Treasurer. Additionally, several local elected officials were defendants including the Auditor, Treasurer and Assessor for several counties throughout the State.

Description. This was a *Serrano* type suit based upon the equal protection and education provisions of the Idaho constitution. This latter constitutional provision requires the state to "establish and maintain a general, uniform and thorough system of public, free, common schools for all the children in the state. . . ."

Status. During the summer of 1973 the case was tried based upon stipulated facts and procedures. On November 16, 1973 the trial court issued a written opinion declaring Idaho's school financing system to be unconstitutional in that it "does not provide for a uniform system of public schools as required by /the state constitution/."

On appeal, the Idaho Supreme Court in a 3-2 decision rejected a claim that its education finance law violates Article 9, Section 1 of its Constitution which requires the state to provide a "uniform system" of public schools. In upholding the statute, the Court reversed the judgment of the trial court which had held the statute unconstitutional on this ground. The Court also refused to recognize education as a fundamental interest and turned back an equal protection attack as well. The two dissenting justices considered education a "fundamental interest" because of its special place in the Idaho constitution and would have found the wealth related inequalities among districts in violation of the state equal protection provision.

MONTANA

State ex rel. Woodahl v. Straub, 520 P.2d 776 (Montana Supreme Court 1974)

Parties. Plaintiffs in this original proceeding before the Montana Supreme Court were the Montana Attorney General and Department of Revenue. Defendants were county officials in a property rich county.

Description. Plaintiffs, in an original action in the Montana Supreme Court, sought a ruling on the constitutionality of recently passed school finance legislation which required counties raising more than the amount needed to fund the "foundation program" with a 40 mill property tax levy to pay over the excess to the state for redistribution to counties which raised less than the foundation amount with a 40 mill levy. This action was precipitated by the refusal of defendants, county officials, to pay over to the state the amount required by this provision. The court characterized the 40 mill levy as a statewide property tax. It held that the legislature had the power to levy such a tax and to use the proceeds for any public purpose including to fulfill its constitutional duty to fund public education. The court rejected the argument that the tax discriminates against the taxpayers of the property rich counties on the grounds that all taxpayers were taxed at the same rate, that the state as a whole benefitted and that it was no defense to the collection of the tax that certain counties did not receive benefits directly in the amount of their contribution.

WASHINGTON

Northshore School District v. Kinnear, 530 P.2d 178 (Washington Supreme Court 1974) (6-3)

Parties. Plaintiffs were school districts, school children and their guardians ad litem, parents of school children, school directors and tax payers of the State of Washington. The defendants were the State Department of Revenue, the State Superintendent of Public Instruction, the State Treasurer and members of the Board of Education in the State of Washington, and the State of Washington.

Description. Plaintiffs alleged that as a direct result of the state school financing scheme, which makes the quality of every child's public education a function of the taxable wealth per pupil of the school district in which he resides, substantial disparity among the state's school districts exist in the dollar amount spent per pupil and therefore in the quality and extent of available educational opportunities as well as in the rate of taxes which must be paid for the same or lesser educational opportunities in violation of the state's duty to provide for the ample provision of education and of the State of Washington's and the United States' constitutional provisions guaranteeing equal educational opportunity. Plaintiffs asked the court to declare the financing system void as repugnant to the equal protection and education provisions of the State constitution and the 14th amendment to the U.S. Constitution.

Status. The case was filed in the Washington State Supreme Court in April 1972. The original jurisdiction of the court was appropriate because of a state procedural rule allowing for appellate jurisdiction in actions against state officers. In December 1974, a divided Supreme Court of Washington upheld the state's educational finance statute. Five separate opinions were filed by the nine member court. Only three members of the court voted to uphold the system without reservation. Three other members of the court concurred in the result. Three judges dissented.

The three justices who had no reservations about the system's constitutionality denied that children were unequally treated as a result of differences among districts in assessed valuation per pupil contrary to equal protection requirements and found that a "uniform and general system" of education only requires certain minimum educational opportunities be provided.

Two of the concurring justices had substantial reservations about the constitutionality of the educational finance system, believing that the "States contribution to the cost of educating children within its borders is inadequate." However, they found that the trial record did not clearly disclose this inadequacy. A third concurring justice found that plaintiffs had not established their case.

Three other justices joined in a strong dissent which characterized the plurality opinion as a "legal pygmy of doubtful origin." The dissent accused the majority of ignoring the facts in the case which showed that there is a direct relationship between assessed valuation per pupil and expenditures per pupil, and that state aid has nonequalizing effects. Consequently the dissenters found that the state had failed in its "paramount duty . . . to make ample provision for the education of all children" by means of a "general and uniform" system of public schools as required by the state constitution.